



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

ANNUAL BANQUET

New Willard Hotel,

Saturday, April 26, 1913, 7:30 o'clock p.m.

Mr. FREDERIC R. COUDERT, Toastmaster. Gentlemen, you may have noted that since our last banquet the toastmaster has been armed. Why I do not know, because, if I remember correctly, there was no attempt last year to attack him. He was very much encouraged thereby, yet possibly, owing to the ebullition of vivacity that the delightful subjects that we have had to discuss have given rise to recently, he has been furnished with this weapon.

I am very sorry to see, and I know in saying it that I express the feeling of everybody here, that our honored president, Senator Root, cannot, owing to a domestic bereavement, be present this evening. We all know what he has done for our Society, how devotedly he has worked for it, and how much it means to him.

For some reason of an anti-climatic nature, the precise explanation of which can only exist in the brain of one man, the Secretary asked me if I would act in his place tonight. Possibly he wished, in friendly rivalry, to show how much better he was than I, for his silence is always golden and my speech is not silver.

Gentlemen, we are here to assess and take account of stock, as it were. We have been performing most important functions. I incline to the belief that, with the exception of very few of us, we are entirely too modest, that we do not realize that we have been settling, at great expense of nerve power and energy to ourselves, the serious questions that are agitating the country, and that, by reason of our cogitations, deliberations and exchange of views, Congress, or the American people at least, will soon enter on a plan very fairly marked out, and the statesmen who are trying to govern us, will find, as soon as they are able to peruse the pamphlet that will be published next week, that they have full, adequate and excellent authority for any course of action that they may choose to take in regard to any question that arises.

Somebody has said that there are more lawyers in the United States and less law than anywhere else. I am inclined to think that there may be some truth in that. Now, I come from a very excellent town, quite inimitable in all respects. It is the reverse of a cemetery, because everybody in it wants to stay in it, and all the people who are outside want to come in. Nevertheless, we suffer from a plethora of

laws, and we have developed, perhaps by reason of the fact that we have so many laws—we are not lawless; we have too many laws—we have developed a system that unkind people characterize by hard names. In the days of the Stuart kings, it was characterized as “the dispensing power,” but when certain high chiefs of our police and general security system find that laws are too numerous, too complex, too much misunderstood by the mass of people, instead of resorting to harsh measures and to violence, they exercise that power which the Stuart kings exercised with so much gratification to themselves, for a short time. We do not characterize it in exactly the same way, but, perhaps, philosophically it is very much the same thing. It is due in part, perhaps, to the fact that law and actual conditions do not harmonize, and, when they do not, so much the worse for the law.

I believe it was Lord Acton, speaking of a certain cynical writer in the Middle Ages, quoted him as saying that “the Lord did not desire the death of a sinner, but rather that he should pay and be saved.” And so it is in international law. The value of international law as a substitute for might is that the international lawyer and the international type of mind, do not desire the death or destruction of any nation, but merely that it shall pay and be saved. We have had a good deal to say about construction, construction of statutes and construction of treaties. It was, indeed, very interesting.

I confess I was not wholly surprised to know that the word “all” sometimes meant “some.” That did not seem surprising to me. I once spent a good many weeks in a neighboring high tribunal trying to find out what the words “United States” meant. I was not able to find out; I have not yet been able to find out very definitely. Perhaps there is a certain philosophic reason back of these difficulties of construction. Perhaps they could be instanced by a horse trade, of which I was the unwilling victim. The illustration is perhaps homely, but we are all more or less fond of horseflesh, and seeing a very fine looking horse, and hearing the encomiums pronounced upon him by his owner, I resolved to purchase him, and after having purchased him I found he was utterly worthless in the hunting field, and when I reproached the former owner, I said, “You told me that he was very fine.” He said, “Sir, I did, and I believed he was very fine, and he is very fine looking, but the trouble is that while I was thinking of appearance, you were thinking of performance.”

Now I understand from some of the diplomats here present that there is a rough and ready explanation. I understand that when

treaties are made by diplomats, each diplomat thinks that the other diplomat does not understand what he wants, and that, therefore, if the construction is elastic, if they have such a vague, philosophic word as "all" or "some," it then may be possible to construe its meaning as something different from what the untutored intellect naturally assumes. That may indeed be a practical reason, but I doubt if that goes to the root of things. I think the reason is deeper than that. In my own town, where we think less of the practical things than you do, where we have less hunting of all kinds, including offices, and more of the higher realms of disinterested philosophy and altruism, we had a visit some time ago from a very noted philosopher from France, I think I may say the leading philosophic mind, Mr. Bergson, and since Socrates taught in ancient Attica, I doubt whether so fine an audience ever presented itself to hear so delightful a gentleman. In fact, the town turned out in great force, and we learned from him some very interesting things. We learned from him that if we really wanted to know about things, we must stop reasoning about them, that reason and logic would always bring us into mental chaos, and that the truth was ascertained by a much more summary method, namely, the method of intuition. I do not assume that, even with his encyclopedic knowledge, he had gathered all of his philosophic ideas from the reports of the Supreme Court of the United States, but from some of the dissenting opinions I have found therein, I believe he would derive very great comfort, because if I remember one of them, the statement is made that legal judgments are predicated upon some infinitely subtler thing than anything that could be founded on a syllogism. Therefore, when I heard these learned gentlemen differing about matters that the ordinary man in the street would not have sufficient intellect to have two minds about, I thought perhaps there might be some deep underlying reason for it, and I turned to my satchel, where I always keep some philosophic consolation, especially when I am at meetings of this kind, and found a copy of Mr. Bergson's introduction to metaphysics; there I found what I think is the explanation of the psychologic state of mind of which we have been witnesses during the past day or two, and I will read it to you, because it seems to me so absolutely to the point. It has removed all my doubts and all my troubles, and it goes to the real basis of international law, and the reasoning that is predicated upon it.

Mr. Bergson says:

"It would follow from this that the absolute truth [which, of course,

all of us are seeking] could only be given in an intuition, whilst everything else [he means everything else than truth] falls within the province of analysis. By intuition is meant the kind of intellectual sympathy by which one places oneself within an object [that is to say, a treaty], in order to coincide with what is unique in it, and consequently inexpressible."

Gentlemen, this seemed to me to be the explanation.

If we want the truth about these matters, the truth we must not attempt to express, because the moment we attempt to express it, we cease to grasp it intuitively, and we lose it. Therefore, if we were true philosophers, I suppose we would do well to merely announce our intuitive conclusions. They would almost certainly be right, and having done so, we might, perhaps, not volunteer to request directly, but we might request, we will say, the highest law officer of the government to carry our philosophic conclusion to an interpreting tribunal and to explain to them that when they were dealing with these important matters of treaty and international law, it might be well, in the words of the French Revolutionary Committee, *la mort sans phrases*, to announce conclusions without those misleading formulæ which Mr. Bergson says never lead to anything save confusion.

I recently had a personal experience, for which I would apologize for speaking of were I not in an audience of lawyers, and lawyers always speak of their own experiences and are very little interested in those of others, perhaps because their own experiences are those with which they are the more familiar. I was again reminded of Mr. Bergson in the trial of a case in connection with a treaty, where the question had been decided in a certain way in the Supreme Court of Massachusetts. That court, in a very short opinion, said that the treaty meant what the English language would convey to the ordinary mind, and that it actually created something that had not existed before the treaty was put into force. In other words, they actually put themselves upon record—put themselves on record—on the proposition that the diplomatic minds who made that treaty actually intended to accomplish a result! Now, that seems very startling. At the same time, in the State of New York the lower courts, at least, followed that result, and generally throughout the country it was acquiesced in; but another case came up from the illustrious State of California, and the jurists in that eminent jurisdiction, possibly because of the greater familiarity with the psychologic work of the diplomatic mind, said these gentlemen who made the treaty meant nothing at all; they were

really satisfied with the *status quo*. We carried the case to the Supreme Court of the United States, where they brushed aside, in easy fashion, the Massachusetts, New York, Michigan and the other rulings, to the effect that the treaty did accomplish something, and they explained very effectually to that tribunal that that treaty was a collocation of sound words, which had no possible object save to assuage the feelings of those who made them, and the court therefore decided, possibly from extreme conservatism, that the situation had not been changed in any way by the treaty. The result of the treaty, at least, had been that it had annoyed and puzzled several nations over a number of years and made courts give contradictory opinions. The moral of the case seems to be that, so far as treaties and international law are concerned, we must more or less assume that everything that is done is done with the intention of leaving things where they were before. At least that is the moral I draw from the decision. I may be wrong, and possibly I may be biased, but I do not see that any other indication is possible.

It is interesting to see how the cycle revolves. We are witnessing a recrudescence of particularism, if I may be permitted to use a phrase of my own; I never heard it during the debates on this very matter, and hence I think it must be original. If it is not, it certainly ought to be—but we are witnessing it all over the United States, and it is really very interesting to us who are steeped in philosophy, history, international law and all those things that have no relation whatever to practical life; it is very interesting to find that a town or a state or some subdivision of what we used to consider internationally, at least, as a mere unit, may interpret a treaty according to its local needs and feelings. That is a very convenient doctrine in the parish or in the locality. The only thing about it is that it seems to be a startling reversion to earlier conditions. It is perhaps atavistic. In the case of which I speak there was cited a decision in Louisiana in 1856, but the Massachusetts courts, with that strong national feeling inbred in them, held that there were certain views entertained as to the relation between the nation and States and foreign nations, in 1856, which had been more or less obsolete, but I take it that they were not wholly right in that, and there seems to be a movement now, the result of which would be to resolve us into those atoms from which we originally came, if only followed out to its logical conclusion. I cannot blame those gentlemen who talk of unconstitutional treaties, nor can I blame anyone else for not perusing with the same assiduity that all of you gentle-

men have done, the decisions of the Supreme Court of the United States. They do not present, in many respects, the same attractive features of other periodic literature; but, at the same time, there are certain things in them which it would be well to read. If we went back to the time of Chief Justice Marshall, we would find similar contentions that were made at that time with most unvarying lack of success in every respect.

Possibly I am somewhat of an antiquary in referring to those old decisions; but, after all, it seems to me that the Supreme Court has taken care, as far as it could, that such an apparently absurd recrudescence should not occur. However, I might add that I know of no better instance of a court doing its duty, and evidencing an understanding that the United States was not the whole world, however important it was, than the very excellent decision in the Fifth California Reports, in which it was set forth fully that the treaty-making power has a full right to deal with aliens in regard to escheats and other matters relating to their lands, and I recommend it to all of those not coming from that State who are not so familiar with it as the gentlemen from there undoubtedly are.

Of course, international law is a very interesting thing, but it is something more than that. It seems to me, to use the phrase of my friend, Dr. Nicholas Murray Butler, of Columbia University, the study of international law and the working of international problems lead to the creation of what he termed the "international mind." I take it that that mind should make every patriotic citizen realize that his country is all the greater and all the more important because it is not isolated, because it is a part of a greater and even more magisterial whole; that it is greater in proportion and stands willing to do its duty as one important leading majestic unit in that collocation of national elements we call the world.

I think, therefore, that we are particularly fortunate in having here with us tonight a gentleman who represents, perhaps, as well as anybody on the continent of Europe, exactly what I have in mind when I say "the international mind"; a man who has held the highest official stations in his country, who stands as the foremost in patriotism and devotion to the higher ideals of his own land, and who, nevertheless, has had the time and the ability to devote the surplus of his energy to the betterment of mankind, and who has taken a foremost part in almost every international convention that has occurred in the last twenty years. It was just twenty-four years ago since I saw our hon-

ored guest, Mr. Gregers Gram, sitting on the Bering Sea Arbitration Commission, which was a splendid and dignified body. I do not say that wholly from the fact that I took the very important part of assistant to a private secretary in it. It was a gathering of the best legal and diplomatic minds of all Europe, and it was a fine and majestic spectacle to all of us who were there, to see gathered together, for the settlement of this controversy, the distinguished jurists from England, from America, from Norway and from Italy. It was indeed, a very fine, inspiring sight presided over, as they were, by that great Frenchman Baron DeCourcel. The mere fact that that great tribunal, composed of those great men, was there debating saved us possibly from a serious crisis.

The charge is often made of lawyers, that we are men of talk and not of action. I oftentimes thank Heaven that we are not men of action, because it is men of action—for action may be evil as well as good—that make the trouble between nations, and then the lawyers talk and content themselves with rounded periods; the action that may be for evil and for strife and for destruction is thereby averted, and therefore I say we are fortunate in many respects in not being men of action.

I take particular pleasure in saying to you that Mr. Gram has traveled for two weeks to be here with us this evening, and he has been good enough to say, in response to our unanimous request, that he would address to us a few words.

I welcome him here as an old friend and as an eminent representative of the best international mind. Mr. Gram.

REMARKS OF HIS EXCELLENCY GREGERS W. W. GRAM,
Minister of State of Norway.

MR. GRAM. Gentlemen and members of the American Society of International Law: It is with the deepest gratitude that I have heard the kind words which were addressed to me by our toastmaster this evening. I wish to thank you for the reception that you have given me this night. What is present in my mind at this moment is to extend to you my heartfelt thanks for this reception.

I can not tell how many times I have sat at home and said to myself that there was something wanting in my education. I had not seen the United States. It may be that it is a little late now to complete my education, but still I feel that I have a strong desire to learn

and to see with my own eyes instead of hearing from others. It seems to me that to everybody who cares for the progress of the world it must be of a high interest to come to a country the destiny of which is so closely connected with the destinies of all the civilized world.

Looking back on the last century, we must recognize in all parts of the world how much we are indebted to the United States for what has been done here to make men more free, more liberal, and larger in their views; and if I have confidence in the future, as I have, it is in my mind that we must be sure that this country will continue to take a large share in the future in the great common work of civilization. I am a Norwegian. It is natural for me to think of the thousands and thousands of my countrymen who crossed the ocean to come here, and who have found not only prosperity, but a new fatherland, a new home. I think it is quite natural that such a thing must be a mighty tie between nations.

Gentlemen of the Society, I want to say to you that I am happy to have had an opportunity of assisting at an annual meeting of this distinguished Society, a meeting which has been to me one of very great interest, and I ask permission to present to you a greeting from another international association, *l'Institut de Droit International*.

I am proud to say that we have present here men who are among the most distinguished members of that association. I regret very much not to see the president of this Society, Mr. Root, who is one of them, but I have the pleasure of seeing my good friend Mr. Scott and others. I think it is in the interest of both associations that the members of them meet and exchange their views upon matters laid before them.

I will never forget the reception which has been given to me, and I thank you very much.

The TOASTMASTER. Gentlemen, if the Honorable Mr. Gram thought that there was a lack in his education because he did not know us very well before coming here, by his admirable paper and his speech and his gracious presence he has filled at least one void which existed in our education before he came.

There is in Europe one country—I was going to say a little country, but that is not the word, because if bigness consists of high principles, if it consists of altruism, if it consists of spiritual power, if it consists of standing for the right and for fairness among men, then Holland

is a great country, and always has been. It was great in the days when the military ideal stood high, and, if I remember rightly, none other than Hollanders were accustomed to carrying brooms at their mastheads in a certain historic channel. But times pass along, and having excelled in the ideals of the Middle Ages, they left them to excel in the ideals of modern times.

There is this one center in Europe where peace and amity dwell, and where all nations, on a common ground, of common justice and common courtesy, may meet to settle their controversies. I have wondered sometimes at the explanations of the historians, who are much better equipped than I to give it to you, but I came across, in a simple sort of a way, something of an explanation. A number of years ago, before the introduction of the automobile, when the highways were meant for ordinary individuals and for pleasant pastime, I was bicycling through that lovely country, and I struck up a friendship with an agreeable young Hollander. I found him delightful, and he asked me to his home. His sisters were even more delightful than himself, and I saw much of them for several days. We were traveling together, and one day a particularly dignified and pompous individual passed us by, and I was struck with his look of superiority and aristocracy, and I asked my young friend, "Who is that? Do you know him?" "Oh, no," he said, "I could not know him. He is an advocate, and I am only a merchant."

Surely, that shows that a lawyer gets at least in one country in Europe the place in society to which he is entitled, and perhaps that is one of the reasons of the extraordinary preëminence of this great country. But if that explanation be inadequate, our very honored guest, his excellency the Minister of the Netherlands, Mr. Loudon, will explain to us the other reasons, and will tell us about that wonderful land, the great center of international law and peace. Mr. Loudon.

REMARKS OF HIS EXCELLENCY JONKHEER J. LOUDON,
Minister of the Netherlands.

MR. LOUDON. Mr. Toastmaster and Gentlemen: It certainly did not require very much persuasive talent on the part of Mr. James Brown Scott, whom you all know, appreciate, and probably love, to induce me, the representative of Holland, to accept the kind invitation

of the American Society of International Law to be present at this banquet. It did require a little more persuasion, at first, on the part of Mr. Scott, to get me to speak this evening, and to speak on The Hague as the center of international activity. When he mentioned it, I said, "Why, everybody knows what The Hague's international activity is. What do you want me to say?" Well, you all know Mr. Scott, and when this bard of international law had sung to me, I was captivated by his melody, and so it is that I am here, addressing you.

Gentlemen, it is indeed a great pleasure for me to be with you, and I want to thank you, Mr. Toastmaster, for the kind words in which you introduced me.

It is gratifying to me, as a representative of Holland, to feel that my country is more and more being recognized as a center of international activity. Mr. Scott was so kind the other day as to even call The Hague the capital of international activity. I am too modest to accept that, but I certainly admit that it now is an international center, and to recall how it so came to be, I need not go very far back in our memory. I have only to mention to you the name of my distinguished compatriot, Mr. Asser, who started The Hague's international activity by his series of conferences on international private law. A few years later, the First Peace Conference took place. When the world was first startled by that proposition of Czar Nicholas II of Russia, whose aim was the establishment of universal peace and disarmament, most people thought that, for the seat of the conference, the Emperor would choose some neutralized country, Belgium or Luxembourg or Switzerland. It is hard to know exactly what led the Czar in his choice of The Hague, but certainly he must have been attracted to Holland as the old seat of historic learning and of high ideals, the land of freedom of thought and action, a small country surrounded by mighty neighbors, but, I am happy to say, uninfluenced by those neighbors; a country not of such perfect quiet as its peaceful landscape, its meadows, windmills and cows would indicate; a country not so entirely devoted to peace, that it is not ready to fight for its independence in case of need. We Hollanders bear in mind that we have to defend our own neutrality in Europe in case of that so often predicted conflict which we hope will never take place between our neighbors; we bear in mind that we also have to defend our colonies, that vast dominion in the East Indies, where we have no less than thirty-eight million natives under our control. and which I am proud

to say is at the present time governed on the most liberal lines, on ethical lines, with the idea that colonies should not exist for the benefit of the exchequer of the mother country, as our forebears thought, but above all for the good of the natives.

Then, Holland was the country of our great Grotius—and when I say “our,” I refer to all of you—our great Grotius, the father of international law. The selection of The Hague as the seat of the Peace Conferences was indeed a tribute of the civilized world to the memory of Hugo Grotius. I am sorry to say that in the days of Grotius there was internal strife in Holland, as a result of which he was sent to prison. I presume you all know the story of how his wife succeeded in rescuing him by introducing into the prison a case of books for the learned man to study, then placing him in the case, baffling the prison wardens and getting him out of the country. Well, it is a stain on our country that he should have had to leave it in that fashion; but I am glad to say that Holland soon recognized his immense value. I think that if any statue is to be erected at the opening of the Peace Palace, it should be a statue of Hugo Grotius.

I was mentioning Professor Asser’s private law conferences and the Peace Conferences. There are many more. Only today, in looking over papers at home, I found there had been no less than thirteen international conferences at The Hague in the last three or four years. There were conferences on alcoholism, on education, on housing, the opium conference, etc.

People often say that the Peace Conferences have not been a success, but in this gathering there are doubtless very few men who agree to that verdict. On the contrary, these conferences have accomplished a great deal. Just think for one moment what it meant to obtain a consensus of opinion on matters like good offices, mediation, rights and duties of neutrals, the institution of an international prize court! Think what the first conference accomplished when it instituted international commissions of inquiry! I need only refer to the Dogger Bank incident, and I believe I may say that hostilities were averted at that moment by the fact that the first International Peace Conference had created those commissions of inquiry.

Gentlemen, it is a particular pleasure for me at the present day to mention these commissions of inquiry, because only two days ago the Secretary of State submitted to us diplomats a suggestion to present to our governments a so-called peace plan, a draft agreement between

the United States and each of our countries which, in order to avoid possible wars in the future, states that the contracting parties will submit all questions in dispute between them to an international commission for investigation and report, that commission to act on its own initiative, the parties reserving their right to act independently after the report is submitted, but agreeing not to go to war until then. In other words, there will be no further obligation as to the final settlement of the dispute, but somewhat on the same lines as the Dogger Bank investigation, learned men, eminent men, probably chosen beforehand, will put their heads together, and state clearly what the points are, leaving it to the parties to judge whether they are right or not, whilst, meantime, popular irritation is likely to subside.

The Second Peace Conference has led us on the way to a very great institution, which is most desirable for the furtherance of the world's peace, and that is the recommendation concurred in by no less than forty-five Powers, to create an International Court of Arbitral Justice, supplementary to the existing permanent court of arbitration, which, as you all know, is not a real court, but merely a panel of judges, from which a choice must be made for each case of arbitration. I believe we may say that a great step has been taken. Forty-five Powers agreed upon this, that there should be a sort of supreme court of the world, the members of which should be real judges, men from various countries trained in international law, men who understand not only the laws of their own country, but also the mode of thinking, and the way of doing business of other nations, men who would represent the various judicial systems of the world. The Powers have not, alas, succeeded on one important point, and that is the method of selecting the judges for the International Court of Justice.

Now, I think, Mr. Toastmaster and gentlemen, it would be a good thing if the members of this Society would devise a solution of that problem. It is what you would call a pretty tough proposition, but I trust they would succeed.

Gentlemen, in September of this year an event of international importance will take place at The Hague, and that is the opening of the Peace Palace. I am happy to be able to state this on American soil, because in that respect again, we Hollanders owe something to America, and to a most generous American citizen—the Peace Palace. The Peace Palace will give an opportunity to the permanent court of arbitration, to international conferences, or, later on, to the members

of the supreme court that I have just mentioned, to come together and to decide the great international questions.

There is in this country a great peace institution, very young, but the trustees of which are some of the most eminent men of this country, and the funds for which were given by that same generous citizen I was mentioning. I mean the Carnegie Endowment for International Peace. I am happy to say that our friend, Mr. James Brown Scott, is its secretary. This institution has suggested, in continuance of a proposal which was made at the Second Peace Conference by Roumania, that there should be created in connection with the Hague Peace Palace an Academy of International Law. I think you will all agree with me that the Peace Palace and the work of The Hague as a center of international activity would not be complete without the establishment of such an academy of international law. The Carnegie Endowment and my government have agreed that this academy should not be a sort of world-wide university, competing in any manner with existing universities. No; it would be a creation entirely apart from anything already existing. It would be an academy founded upon an international basis. The board of the academy would consist of former presidents of the world-known *Institut de Droit International*. The lecturers would come from different countries, from every country, if possible, and they would get together only in the summer months, during the vacations of all other universities. They would represent the ideas of the different countries on matters of international law. Next to that, we want students from all countries to attend these meetings. We therefore hope that all the governments will agree to this proposal; that they will encourage it in every way they can, by undertaking either to send to The Hague, at government cost, young students of international law, future diplomats, young officers of the army and navy, or perhaps to give an advantage later on, when a choice is made of certain public servants, to the men who have attended those lectures.

I have discussed this matter more than once with our friend, Mr. James Brown Scott, and I am glad to take this opportunity to impress upon you the great significance of this contemplated institution. I hope and trust it will not lack the moral support of a society of the immense importance of the American Society of International Law.

I have been in this country for four and a half years. I feel very much like one of you, and I must tell you that one of the greatest

pleasures I have in looking upon matters like that of the peace movement and of The Hague as a center of international activity, is that America is so closely connected with us in the furtherance of our object.

At the First Peace Conference, Mr. Andrew D. White was the president of the American delegation, and your representatives did all they could for the cause of arbitration, and they succeeded in convincing even those who were opposed to it. Mr. Andrew D. White did a thing on that occasion which pleased us, particularly in Holland. It was on the Fourth of July, 1899, when he went with his fellow delegates to the old church in Delft, where Hugo Grotius is interred, and, in the name of the United States, laid down a golden wreath on his tomb. That is a thing we shall not forget.

The Second Peace Conference, as you know, was due to the initiative of President Roosevelt and Mr. Root who, I am sorry to see, for a sad reason is not in our midst this evening. The actual instigation came from the St. Louis meeting of the Interparliamentary Union. The proposal for the creation of the supreme court that I was referring to, the International Court of Arbitral Justice, was again due to the American delegates, and they worked hard for it. Your secretary, Mr. James Brown Scott, is one of those who did the hardest work.

Well, all of this, gentlemen, brings us very near to each other, and now let me end with a word of very high appreciation of your most valuable secretary, Mr. James Brown Scott. I have known him now for a number of years. He is a dreamer; you may say a visionary, an idealist, but his vision is founded on the solid rock of erudition, of true knowledge, and is coupled with real practical sense. I believe that such a man can do great things not only for the American Society of International Law and the Carnegie Endowment, but also for the cause of peace and of good feeling between the nations of this little world of ours as it wheels on in eternity, small as it is, with great purposes, great thoughts, and great ideals.

[At this point, a toast was proposed and drunk to the health of Queen Wilhelmina of Holland.]

The TOASTMASTER. I am sure, my friends, that in view of the exaggerated eulogium on our country spoken by his excellency as to

the aid that we have rendered his country in the splendid and notable work done by it as the center of international thought, we can say that, if Hugo Grotius owed his life to books, we surely owe our philosophy to him.

It seems to me that the suggestion that we discuss the appointment of judges of this international tribunal would be a very good one. In discussing that, I think we might also discuss the advisability of suppressing the reporters of this new tribunal, in order that we may not have these incomprehensible law reports, but may resort to the method of intuition in discerning the reasons for judgments.

Now, it may seem a far cry to the uninitiated from Holland to Texas. I do not know just why it should be so, but to some it may; but I only know that they have one thing in common. They both produce men.

I sometimes think that possibly the American people underestimate Congress as a body. Possibly it is because of the shrinking and timid nature of the majority of members of Congress hiding themselves under a bushel and seeking to avoid notoriety. People do not realize the amount of splendid and disinterested labor that is lost in the legislative halls, apparently, for it is only apparently lost, and yet we must remember that Congress is an international body; that men come from all these great and imperial States, and that in that international body, as a rule, their controversies are settled by arbitration. I do not mean that that is invariable, but it is the rule.

Now, we have here tonight, as representing that great body, an honorable gentleman who has interested himself in the great cause of international good will on the Interparliamentary Committee, who has served there for years, and who has had the courage to serve on the military committee of Congress, because we must realize that if the great ideals of the United States are to be made good, if injustice is to be resisted, if the country is to live up to its civilization, it must first keep order at home and compel respect abroad, because, until the whole world is so civilized that no nation shall longer possess predatory instincts, an army will be necessary, just as a police force will be necessary until every man is so civilized that the atavistic traits are wiped out.

Therefore, it is with particular pleasure that I introduce an eminent gentleman who, for twenty years, has honored Congress, and who is a friend of all of us, Mr. Slayden.

REMARKS OF HONORABLE JAMES L. SLAYDEN,
Member of Congress from Texas.

Mr. SLAYDEN. Mr. Toastmaster, I feel that I owe a word of explanation to such of our guests here this evening as know me for the appearance of my name on this program. It is as much of a surprise to me as no doubt it is to most of you, and perhaps I appreciate more keenly than you do now, but may not later, the mistake of having put it there. It is all chargeable, I may say, to the secretary of this Society, Mr. James Brown Scott, of whom our distinguished friend, his excellency from Holland, has just spoken in terms of "exaggerated eulogium." Mr. Scott called on me two evenings ago and told me that a great calamity had befallen, that one of the most eminent and attractive speakers in the country, who had promised to address you tonight, had suddenly been called away on what we hope will be a pacific mission to the Pacific Coast, and that he knew of no one in the city who could fill his place so well as I, in the way of suggesting what you have lost by his going away. Now, rashly, in a moment of weakness, after a day's work, when will-power and body were both exhausted, and because he was tearful in his petition, I consented to come and to make you appreciate still more keenly what you missed by the absence of the Secretary of State.

When I told Mr. Scott that I came from a State where there was supposed to be no law, and where, of course, I learned none, and that I had served for eighteen years in a law-making body, which had added to the original confusion of my mind, he thought I would be an entirely appropriate person to address an organization like this on international law.

When I asked him upon what subject I should address you, he said, "Well, almost anything; they are patient and courteous, and they will not throw the crockery at you." He further said that, as they prospered in turmoil and reveled in strife, he thought perhaps it would be a surprise to them if I said something about one association composed of earnest, energetic, patient, plodding men, who have devoted their lives to the work of bringing about peace, and he suggested that I tell you briefly—and he emphasized the word "briefly"—of the Interparliamentary Union for the Promotion of Arbitration, which, in spite of that extraordinary and almost intolerable name, is a worthy organization, I assure you.

In order that I might tell the story within the compass of the eight or ten minutes allotted to me, I wrote it down, and that I may not become discursive or tiresome, or at least more tiresome than your patience will endure, I shall read to you this brief sketch of the organization, a history of that organization with which perhaps some of you are not familiar.

Practically every definition of the term International Law that has come under my observation says, in substance, that it is a body of rules, or customs, generally accepted as just and reasonable and worthy to control nations in their relations with each other. That, at least, is about what the average man understands the term to mean.

If it is based on justice, if it does tend to keep the peace between nations, if its influence is to protect the weak from the trespasses of the strong, then, surely, international law ought to be translated into fact. It ought, also, to be incorporated into the system of municipal laws of the various governments and provision should be made for enforcement under proper penalties for violation.

Unfortunately, international law is not automatic and does not, of its own motion, always get into operation in time to avoid the horrors of war and to prevent gross acts of injustice. There should be some agency at hand in great crises to save nations from the consequences of their own folly and to compel the application of these just and reasonable rules. Having been previously agreed to, they may, by their pertinence to threatening conditions, avoid the misery and waste of war if opportunely employed.

Such an agency we already have. It is the Interparliamentary Union, which was founded in Paris in 1889. In many respects it is the most important international organization ever created. It was not organized to promote the glory of any man, or the interests of any one country. It is a purely altruistic body, and for twenty-four years has been exercising a wholesome influence on the affairs of the world.

For this great and active servant of right the world was indebted to the late Sir William Randal Cremer. Cremer was a workingman, a carpenter, who spent his whole life in an effort to avoid wars, which he often said workmen did not make but had to fight. As long ago as in 1871 he organized among trades unionists in Great Britain the International Arbitration League. For a few years the League had a useful career, but finally fell into such radical control that the

founder withdrew and in a year or two it ceased to exist. But Cremer did not abandon the great central thought, which was international arbitration. He labored under the tremendous handicap of obscurity and a lack of means until 1885, when he became a member of the House of Commons. From the vantage ground of a parliamentary seat he continued the struggle for peace through arbitration. At his instance a conference was assembled in Paris in 1888. That conference, which consisted of about fifty French deputies and twenty-eight members of the British Parliament, laid the foundation for the Inter-parliamentary Union for the Promotion of Arbitration. The first formal session of the Union was held in London in 1890, and since then it has had sixteen other meetings in the various capitals of the world, including one in St. Louis in 1904.

That it has justified its existence and the pecuniary sacrifices of the members who have gone about the world doing valuable public work at their own expense is not doubted by anyone familiar with its history.

It aims high. Its purpose is to substitute the reason that is, or may be, embodied in international rules—international law, if you please—for mere force in the settlement of disputes between nations. That it has not always been successful is, unfortunately, true, but that is no reason for abandoning the great work. No sane person ever thought that it would be immediately or entirely successful. But there has been a distinct, clearly ascertained and valuable advance toward the goal. Wars have not ceased, nor will they for a long time, but the world, through this particular organization and kindred societies, has been given a clearer idea of what they mean, what they cost and the sacrifices they entail. One thing is very evident, and that is, if continuous peace is ever to come, it will be through such associations as that which I am telling you about.

The Union is composed of such members of national legislative bodies as voluntarily associate themselves for the work. Russia and Turkey, since they established constitutional government, are represented in the Union, and I do not doubt that at the conference which will assemble at The Hague in September, China will have parliamentarians on hand to represent the newest constitutional republic.

Being composed of legislators, the Union is in a position to consider the principles of international law and to call them to the

attention of the parliaments of which they are members, and, occasionally, by the exercise of individual and associated influence, to procure the incorporation of these principles into the municipal laws of their respective governments.

The great Hague Conferences, which, by the way, were largely the result of the activities of the Interparliamentary Union, and which is a sort of diplomatic body, drafts and adopts treaties and conventions and recommends them to the participating governments for ratification. The Union also considers such proposals and, if they are approved, goes to work actively, as members of various parliaments, to impress their fellow legislators with their importance. It is no mere mouthpiece of the Hague Conference, but acts independently, when not inclined to coöperation.

The Interparliamentary Union has exerted a great and, I think, wholesome influence upon internationalism, or in the development of what Dr. Butler of Columbia calls "The International Mind." It is helping men to see across national boundaries. It will suffice in an address limited to eight or ten minutes to refer to only one or two of its accomplishments.

The project to establish an international court of arbitration is of long standing. The minds of men who believe that it is better to promote commerce than to impede it, to conserve property than to destroy it, to save life than to take it, have long been turned in that direction. For these reasons they stand for arbitration.

The conferences of the Union at The Hague in 1894, and at Brussels in 1895, were almost entirely given over to the discussion of the establishment of a court of arbitration. That at The Hague took up as its main business the discussion of a report made by the Honorable Philip Stanhope, President of the British Group of the Union, on the establishment of a Permanent International Court of Arbitration.

Mr. Stanhope was for many years one of the closest personal and political friends of Mr. Gladstone, and in presenting his report he referred to the earnest desire of that wonderful man for the establishment of such a tribunal in Europe.

To those gentlemen who are inclined to believe that every man who devotes himself to the work of international peace is necessarily a crank and impractical, I would seriously and earnestly invite their

attention to the suggestions submitted at that time by Philip Stanhope, embodied in these four rules that I am going to read to you.

The project submitted was not wild and freakish. It made moderate, conservative proposals, and all for the general good. It was suggested in the report that such a court should recognize the following principles:

1. National sovereignty to remain inalienable and inviolate.
2. The adhesion of every government to the court to be absolutely optional.
3. All adhering states to be on a footing of perfect equality with respect to the international court.
4. The judgment of the court must have the force of an executive sentence.

It is worth while noting in this connection that not only does no government forfeit any of its sovereignty or dignity in such an agreement but, rather, makes it more secure.

The conference at Brussels a year later pushed the great work forward, and the proposals of the Union culminated in the establishment of the Court of The Hague, which Andrew D. White has said is of "vast importance."

The machinery for the rational settlement of international disputes being now provided, and mainly through the work and influence of the Interparliamentary Union, it only remains to educate the public so that the adhesion of all governments will be compelled. That is the work in which the Union is now engaged.

Cremer, the founder, believed that the First Hague Conference, called by the Czar Nicholas, was directly due to the influence that its work had on the mind of that ruler. The Czar had heard of the Union and asked his ministers for more information, at the same time expressing his sympathy and desire to coöperate. When reminded of the fact that it was an organization composed entirely of parliamentarians and that Russia had no representative legislative body, he was compelled to express his sympathy in another manner, and so came about the First Hague Conference.

The Union stands for something definite and practical. It hopes to translate into beneficent facts all the great and just principles of international law. It asks nothing freakish or unpatriotic of its members, who stand absolutely for the preservation of all national dignities, of territory and of sovereignty. It is opposed to war,

although it concedes that sometimes so drastic a remedy may be necessary. It stands for the civilizing influence of religion and the courts. It believes that wars are more hateful and hurtful than private quarrels. Private quarrels and their violent adjustment by the principals is not tolerated in civilized society, and public quarrels, which are a million times more destructive, ought not to be. That, in brief, is the creed of the Interparliamentary Union.

I heard this week that a certain eminent public man has said that he does not believe in the plan put forward by the Secretary of State for the arbitral settlement of international disputes because he regards war as a great civilizer. The Interparliamentary Union was created for the specific purpose of opposing just such civilizing influences as that gentleman stands for, and when light shall have penetrated all dark places, we will hope to have him as a recruit. But, for the time being, we set against his dictum the platform of a greater who said, "Peace on earth to men of good will."

The decrees of such a court will always be respected. It will not require the aid of a single constable, for the greatest of all Powers, universal public opinion, will sustain it.

The TOASTMASTER. Far be it from me to take part in this momentous controversy that has arisen over the merits of our Secretary, but I confess that my sympathies are not with the last speaker. I believe that if he has one quality that is transcendent, it is the selection of speakers at his banquets. Of course, I am unbiased; but I think the last speaker proved it. If we are sorry that the Secretary of State was not present, at least the presence of Mr. Slayden has reduced our regret to the irreducible minimum.

Now, gentlemen, lawyers, some lawyers, a few lawyers, rare lawyers, have occasion to look into history. I do not know why. Perhaps it is because sometimes they are interested in it, or that sometimes they may not have enough actual practice, or there may not be novels on hand; but when they do, they want history as accurately as it can be found, and history that will last as accurate for a long time—I mean for several months or several years, as such things go. Such men have recourse to the splendid works which are either written by Professor Hart, of Harvard University, or inspired under his wise and excellent guidance. Some of you may have been present yesterday when the arid legal discussion as to what mere language meant

was enlightened by his exposition of diplomatic history, and the idea, if I grasped his very comprehensive thought, was that when you are dealing with another fellow on a specific point, you want to know his past history and what he is doing elsewhere. I had that very experience once in an ordinary tort case. It did not seem to me to be a very good case, but I wanted the retainer, yet did not want to lose the case, and finally I said to the client, "You seem to have an exaggerated confidence in your case. What is it based on?" He said, "Well, you know, I think my chance is very good, because I know so much about the plaintiff's private life."

So, I think, it will be very interesting to hear from our most illustrious professor of diplomatic history of that great university, Harvard, Professor Albert Bushnell Hart.

REMARKS OF MR. ALBERT BUSHNELL HART,
Professor in Harvard University.

MR. HART. Fellow members of this honorable Society: Your toastmaster has been good enough to allude to the great service which history renders to the legal profession, meaning, I suppose, that it enables lawyers to discover how many errors have been made by lawyers and by jurists in the past, so that they may repeat them for the benefit of their clients. History is, however, an essential part of all diplomatic proceedings, of all arbitrations, of presentation of cases, and I suppose that the historical mind may be as serviceable to the diplomat as to the ordinary man of affairs. Now, my own knowledge of international law, as a historian, I will confess is meager. As far as I can remember, in my academic career I heard three courses of lectures upon international law; the first from a very estimable man, who knew no international law; the second from a German professor who communicated no international law; and the third from a French professor who happened to be absent in the year that I was so happy as to attend the lectures. I will not, therefore, disturb myself by presenting any additional points of view upon the great questions which we have been deliberating, and which we have finally so completely and so admirably settled.

I should like, however, to say a few words about the absolute necessity of making further appeals within our own country, by bringing to the minds of more people in a stronger and more per-

manent way, the fact that there is such a thing as international law and such a thing as international relations.

Now, of course, as a college professor, I share in and am interested in the efforts made, with a good deal of success, to teach those young men who are interested in it some of the types of international law. Although I have not taught international law, I see before me the faces of several persons who have sat in my classes, but whose later career apparently has not been seriously and unfavorably affected by that circumstance. I see before me a gentleman whose name has already been mentioned, and I have observed, gentlemen, that when the name of Mr. James Brown Scott proceeded from the mouths of the speakers here, that we all involuntarily cringed. Why? Because, as he is the editor of the great series of Classics of International Law, we all fear that he may leave our work out of that important series. But there was a time when I did not cringe, and when James Brown Scott did cringe, when I had it in my power to decide the grave question whether he should receive merely A or A plus upon his work.

I believe it is absolutely necessary that there should be an idea of international law more widely spread throughout the community, and there are several reasons for that; the first being that at present the whole trend of the political thought of this country is toward a fluidity of law, a movement for the initiative, for the referendum, and for constitutional amendments, upon a large scale, both of the National and of the State Constitutions. They all indicate a growing feeling that law is a temporary matter, that laws not only are not eternal, but that they are not very durable. There has been an enormous mass of legislation poured out by the State legislatures year by year, until now nobody believes that any law is very important. As a historian, I might call attention to a fact that international lawyers appear to deduce from the frequency of laws in the past. Their deduction seems to be a thing so perfected that when you find twenty-five successive statutes against the stealing of sheep it would indicate that sheep were not stolen; but the historian knows there will be about twenty-five laws defining the laws of stealing sheep. As a matter of fact, the fact that there is so much law makes no difference. A great conception of the juridical principles bearing between individuals and between nations, founded essentially in the nature of human government in the whole idea of the relation of groups of mankind, ideas which are not predicated on legislation, but on cen-

turies of experience, ideas which must lie at the base of all constant enduring human relation, are ideals which are at the other pole from the fluidity of law of which I have spoken; and unless pains are taken in some way to bring home to the growing youth and middle-aged people of the United States the idea that there is a system of law which is not subject to the initiative or referendum, unless we have a different conception, this country will be plunged into a series of interminable and unpardonable difficulties.

I observe a tendency to extend the principle of impressionism, the cubist method of stating things, to international law. It has been bad enough to see it applied to such great arts as painting and statuary and dancing and foot-ball, but I have seen stated in the public press and elsewhere evidence that the impressionistic tendency has reached the minds of international lawyers. I might instance the suggestion of a statesman that, if there is a treaty in existence that is unfortunate, the way to do is to have the Senate abrogate that treaty. That settles the whole thing. Then you have peace and concord among the nations. Or, if A makes a treaty with B, and A then, of his own volition, changes the circumstances under which that treaty applies, that that constitutes such a change of conditions that he is no longer bound by the treaty.

These aberrations do no harm, except that possibly some people might be influenced, as they are by going to a cubist exhibition, in supposing that those things are pictures.

I have turned over in my mind the hope that perhaps something may be done toward making the fundamental principles of international law better known in our country by systematic and serious study by our youths. I am convinced in my own mind that in our class work we should teach school children twelve or fifteen years of age the fundamental ideas of international relations. We are such a big country; we have so much of the international character in our relations between State and State. As you pass from this District through State after State to the Pacific Coast, you meet with different climates, historical environments, and sometimes very different sets of people, and you have in a sense an international situation within your own boundaries. Oftentimes the idea gets rooted into the child's mind that the United States begins in his ward and ends in the capitol at Washington, that the world begins in his ward and ends at the same point, and that there is no world outside of the boun-

daries of the United States. There is nothing that is more attractive to the cheap demagogue than to dwell upon the immense power and authority of the United States as compared with all other nations. We are a great nation; we are a great Power, and we are bound to be an enormous influence in the world; but we live in a world of great Powers, in which there is no one country that can impose its will without the consent of other Powers, and we might as well recognize it, as our children must do.

Furthermore, something ought to be done to make better known to the youth of America the great laws of juridical science and especially of international jurisprudence.

We have heard references tonight to that great man, Hugo Grotius, and I want to say that if ever there was a cosmopolite, it was Hugo Grotius; if there was ever a man who can be claimed in all civilized countries as a part of the literature of their country, it is that man. Aside from the great church fathers, the apostles, the leaders, the great evangelists, there is no body of men in modern times who have so affected the minds of the civilized community as the great publicists.

Now, Mr. Chairman, I feel like the child who was called upon to give a sentence containing a word and to illustrate it; that is, he was asked to define a figure of speech and give an example. He gave the figure of speech as "He blows his own horn," and his explanation was, "This does not mean that he has a horn; it simply means that he blows it."

The TOASTMASTER. I had no idea that I was such a good prophet, but the professor has lived up to even our most high expectations, and they were of the highest. Any of us who were so unfortunate as not to be nurtured on his books will immediately take them up and begin our education over again, I am sure.

Now, gentlemen, we have had a good time; we have enlightened the nation as we should, we have done our full duty, and I think we will have to leave the solution of some problems of international law until next year. We will then come back to take up any difficulties that may have arisen in the meantime.

I thank you.